

REMARKS

This is a full and timely response to the outstanding non-final Office Action mailed October 26, 2006. Reconsideration and allowance of the application and presently pending claims are respectfully requested.

1. Response to Rejection of Claims under 35 U.S.C. § 112

Claims 1-11 have been rejected under 35 U.S.C. § 112, Second Paragraph for allegedly failing to point out and claim subject matter in the claims. Applicants respectfully submit that the claims, as presented in the Claim Listing, comply with 35 U.S.C. § 112.

With regard to the assertions that (a) the "structural elements of the claimed method steps cannot perform the function of simulating the activities of a plurality of creatures; (b) the antecedent basis for "the firing simulator" in claim 6 is not set forth clearly; (c) the antecedent basis for "the means arranged to reflect a first beam part" in claim 16 is not set forth clearly; (d) the terms "as an optical, electrical or radio signal" in claims 7 and 15 is vague; (e) the step of "observing" in claim 1" is missing, Applicants respectfully note that claim 1 does not include an observing step and therefore, the objection is improper; claims 7 and 15, do not include the terms "as an optical, electrical or radio signal" and therefore, the objection is improper; claim 6 does not include the term "the firing simulator" and therefore, the objection is improper; claim 16 does not recite "the means arranged to reflect a first beam part" and therefore, the objection is improper; and none of the claims recite an "observing" limitation, and therefore, this objection is improper. Applicants also respectfully assert that the function of simulating the activities of a plurality of creatures is properly recited in the claims and adequately supported by the specification.

For at least these reasons, withdrawal of the objections is respectfully requested.

2. Response to Rejection of Claims under 35 U.S.C. § 101

Claims 1-11 have been rejected under 35 U.S.C. § 101 for allegedly being directed to non-statutory subject matter and fails to show a practical application, a physical transformation, or produce a tangible result.

Applicants respectfully submit that the claims are directed to statutory subject matter.

The Federal Circuit in *State Street Bank & Trust Co. v. Signature Financial Group*, 149 F.3d 1368 (Fed. Cir. Jul. 23, 1998), held that transformation of data representing discrete dollar amounts, through a series of mathematical calculations, by a machine, into a final share price, does constitute a practical application and produces a useful, concrete, and tangible result. Likewise, the claimed subject matter describes simulating activities of the plurality of creatures at a first mode of simulation, wherein the first mode of simulation is less detailed and less computationally intensive than a second mode of simulation; and simulating an activity of one of the plurality of creatures at the second mode of simulation, wherein results of the simulation at the second mode of simulation are used to provide a simulation of the plurality of creatures at the first mode of simulation. Simulation of creatures at a first mode and second mode of simulation constitutes a practical application and produces a useful, concrete, and tangible result.

Accordingly, withdrawal of the rejection is respectfully requested.

3. Response to Rejection of Claims under 35 U.S.C. § 102 (b)

Claims 1-11 have been rejected under 35 U.S.C. § 102(b) as being anticipated by *Barba* ("The Sims Livin' Large Expansion Pack – Prima's Official Strategy Guide" by Rick Barba). Applicants respectfully traverse this rejection.

It is axiomatic that "[a]nticipation requires the disclosure in a single prior art reference of each element of the claim under consideration." *W. L. Gore & Associates, Inc. v. Garlock, Inc.*, 721 F.2d 1540, 1554, 220 USPQ 303, 313 (Fed. Cir. 1983). Therefore, every claimed feature of the claimed invention must be represented in the applied reference to constitute a proper rejection under 35 U.S.C. § 102(b).

In the present case, not every feature of the claimed invention is represented in the *Barba* reference. Applicants discuss the *Barba* reference and Applicants' claims in the following.

a. Claim 1

As provided in independent claim 1, Applicants claim:

A method of simulating the activities of a plurality of creatures, the method comprising:

simulating activities of the plurality of creatures at a first mode of simulation, ***wherein the first mode of simulation is less detailed and less computationally intensive than a second mode of simulation;*** and

simulating an activity of one of the plurality of creatures at the second mode of simulation, wherein results of the simulation at the second mode of simulation are used to provide a simulation of the plurality of creatures at the first mode of simulation for the new change in environment.

(Emphasis added).

Applicants respectfully submit that independent claim 1 is allowable for at least the reason that *Barba* does not disclose, teach, or suggest at least "simulating an activity of one of the plurality of creatures at the second mode of simulation, wherein results of the simulation at the second mode of simulation are used to provide a simulation of the plurality of creatures at the first mode of simulation for the new change in environment," as recited and emphasized above in claim 1.

Rather, *Barda* discloses at most game playing hints and strategies for the Sims computer game. In this game guide, *Barda* fails to disclose that different simulation modes are used to simulate activities of one or more creatures. While *Barda* may describe that different activities are capable of being simulated, *Barda* is seemingly limited to representing these activities at the same mode of simulation. Accordingly, *Barda* fails to teach or suggest "simulating an activity of one of the plurality of creatures at the second mode of simulation, wherein results of the simulation at the second mode of simulation are used to provide a simulation of the plurality of creatures at the first mode of simulation for the new change in environment" and "wherein the first mode of simulation is less detailed and less computationally intensive than a second mode of simulation," as recited in claim 1.

Therefore, claim 1 is not anticipated by *Barda*, and the rejection should be withdrawn for at least this reason alone.

b. Claims 2-9

Because independent claim 1 is allowable over the cited art of record, dependent claims 2-9 (which depend from independent claim 1) are allowable as a matter of law for at least the reason that the dependent claims 2-9 contain all the features of independent claim 1. For at least this reason, the rejection of claims 2-9 should be withdrawn.

Additionally and notwithstanding the foregoing reasons for allowability of claims 2-9, these claims recite further features and/or combinations of features (as is apparent by examination of the claims themselves) that are patentably distinct from the cited art of record. Accordingly, the rejections to these claims should be withdrawn.

c. Claim 10

As provided in independent claim 10, Applicants claim:

A recordable medium having recorded thereon computer readable code, wherein the computer readable code is adapted to:

simulate activities of the plurality of creatures at a first mode of simulation, ***wherein the first mode of simulation is less detailed and less computationally intensive than a second mode of simulation; and***

simulate an activity of one of the plurality of creatures at the second mode of simulation, wherein results of the simulation at the second mode of simulation are used to provide a simulation of the plurality of creatures at the first mode of simulation for the new change in environment.

(Emphasis added).

Applicants respectfully submit that independent claim 10 is allowable for at least the reason that *Barba* does not disclose, teach, or suggest at least "simulate an activity of one of the plurality of creatures at the second mode of simulation, wherein results of the simulation at the second mode of simulation are used to provide a simulation of the plurality of creatures at the first mode of simulation for the new change in environment," as recited and emphasized above in claim 10.

Rather, *Barda* discloses at most game playing hints and strategies for the Sims computer game. In this guide, *Barda* fails to disclose that different

simulation modes are used to simulate activities of one or more creatures. While *Barda* may describe that different activities are capable of being simulated, *Barda* is seemingly limited to representing these activities at the same mode of simulation. Accordingly, *Barda* fails to teach or suggest to "simulate an activity of one of the plurality of creatures at the second mode of simulation, wherein results of the simulation at the second mode of simulation are used to provide a simulation of the plurality of creatures at the first mode of simulation for the new change in environment" and "wherein the first mode of simulation is less detailed and less computationally intensive than a second mode of simulation," as recited in claim 10.

Therefore, claim 10 is not anticipated by *Barda*, and the rejection should be withdrawn for at least this reason alone.

d. Claim 11

As provided in independent claim 11, Applicants claim:

A simulator device arranged to simulate the activities of a plurality of creatures, the device being arranged to utilise at least two modes of simulation: a first mode arranged to:

simulate activities of the plurality of creatures at a first mode of simulation, wherein the first mode of simulation is less detailed and less computationally intensive than a second mode of simulation; and

simulate an activity of one of the plurality of creatures at the second mode of simulation, wherein results of the simulation at the second mode of simulation are used to provide a simulation of the plurality of creatures at the first mode of simulation for the new change in environment.

(Emphasis added).

Applicants respectfully submit that independent claim 11 is allowable for at least the reason that *Barba* does not disclose, teach, or suggest at least "simulate an activity of one of the plurality of creatures at the second mode of simulation, wherein results of the simulation at the second mode of simulation are used to provide a simulation of the plurality of creatures at the first mode of simulation for the new change in environment," as recited and emphasized above in claim 11.


Rather, *Barda* discloses at most game playing hints and strategies for the Sims computer game. In this guide, *Barda* fails to disclose that different simulation modes are used to simulate activities of one or more creatures. While *Barda* may describe that different activities are capable of being simulated, *Barda* is seemingly limited to representing these activities at the same mode of simulation. Accordingly, *Barda* fails to teach or suggest to "simulate an activity of one of the plurality of creatures at the second mode of simulation, wherein results of the simulation at the second mode of simulation are used to provide a simulation of the plurality of creatures at the first mode of simulation for the new change in environment" and "wherein the first mode of simulation is less detailed and less computationally intensive than a second mode of simulation," as recited in claim 11.

Therefore, claim 11 is not anticipated by *Barda*, and the rejection should be withdrawn for at least this reason alone.

CONCLUSION

For at least the reasons set forth above, Applicants respectfully submit that all objections and/or rejections have been traversed, rendered moot, and/or accommodated, and that the pending claims are in condition for allowance. Favorable reconsideration and allowance of the present application and all pending claims are hereby courteously requested. If, in the opinion of the Examiner, a telephonic conference would expedite the examination of this matter, the Examiner is invited to call the undersigned agent at (770) 933-9500.

Respectfully submitted,



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